

William A. Isaacson
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Ave. NW, Suite 800
Washington, D.C. 20015
Telephone: (202) 237-2727
Facsimile: (202) 237-6131
Email: wisaacson@bsflp.com

Philip J. Iovieno
BOIES, SCHILLER & FLEXNER LLP
30 South Pearl Street, 11th Floor
Albany, NY 12207
Telephone: (518) 434-0600
Facsimile: (518) 434-0665
Email: piovieno@bsflp.com

*Liaison Counsel for Direct Action Plaintiffs and
Attorneys for Plaintiffs Electrograph Systems, Inc.,
Electrograph Technologies, Corp., Office Depot, Inc.,
CompuCom Systems, Inc., Interbond Corporation of
America, P.C. Richard & Son Long Island Corporation,
ABC Appliance, Inc.,
Schultze Agency Services LLC on behalf of Tweeter Opco,
LLC and Tweeter Newco, LLC, and Tech Data Corporation
and Tech Data Product Management, Inc.*

[additional counsel listed on signature page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Master File No. 3:07-CV-05944-JST
MDL No. 1917

This Document Relates To:

*Electrograph Sys., Inc., et al. v. Hitachi,
Ltd., et al., No. 11-cv-01656;*

*Electrograph Sys., Inc., et al. v.
Technicolor SA, et al., No. 13-cv-05724;*

*Interbond Corp. of Am. v. Hitachi, Ltd.,
et al., No. 11-cv-06275;*

*Interbond Corp. of Am. v. Technicolor SA,
et al., No. 13-cv-05727;*

**CERTAIN DIRECT ACTION
PLAINTIFFS' MOTION SUGGESTING
REMAND**

The Honorable Jon S. Tigar

1 *Office Depot, Inc. v. Hitachi, Ltd., et al.*,
No. 11-cv-06276;

2 *Office Depot, Inc. v. Technicolor SA, et al.*,
3 No. 13-cv-05726;

4 *CompuCom Systems, Inc. v. Hitachi, Ltd.,*
5 *et al.*, No. 11-cv-06396;

6 *Costco Wholesale Corp. v. Hitachi, Ltd.,*
7 *et al.*, No. 11-cv-06397;

8 *P.C. Richard & Son Long Island Corp.,*
9 *et al. v. Hitachi, Ltd., et al.*, No. 12-cv-
02648;

10 *P.C. Richard & Son Long Island Corp.,*
11 *et al. v. Technicolor SA, et al.*, No. 13-cv-
05725;

12 *Schultze Agency Servs., LLC v. Hitachi,*
13 *Ltd., et al.*, 12 No. 12-cv-02649;

14 *Schultze Agency Servs., LLC v. Technicolor*
15 *SA, et al.*, No. 13-cv-05668;

16 *Tech Data Corp., et al. v. Hitachi, Ltd.,*
17 *et al.*, No. 13-cv-00157;

18
19 Pursuant to the Court's Order Granting Plaintiffs' Administrative Motion for Leave to
20 File a Motion Suggesting Remand (Dkt. 4618, May 2, 2016) and the colloquies with the Court at
21 hearings in this matter on September 20, 2016 (transcript at Dkt. 4923) and September 29, 2016
22 (transcript at Dkt. 4928),¹ the undersigned plaintiffs (the "Remand Plaintiffs")² hereby move for

23
24 ¹ At the September 20 conference, the Court stated: "I think it's time to let these Plaintiffs file
their motion for suggestion of remand if that's the question." Dkt.4923 at 32.

25 At the September 29 conference, the Court asked whether a motion for suggestion of remand had
26 already been filed, and Plaintiffs' counsel responded: "We have not filed a remand motion as yet,
27 Your Honor, although we do plan to file a motion which says, When you make a final decision
28 on these five, now, motions that are outstanding, and the two Daubert motions, that upon those
orders, that we be automatically remanded.." Dkt. 4928 at 10-11. The Court responded "I see.
Okay. . . . Well, that's good to know."

an order suggesting that their cases be remanded to the transferor courts, to be entered by the Court upon resolution of the summary judgment and *Daubert* motions pending before this Court in the Remand Plaintiffs' actions.

All but five of the summary judgment motions in the Remand Plaintiffs' actions have been resolved. The following summary judgment motions—which the Court has heard argument on—remain under submission:

- Motion for Summary Judgment Based Upon Lack of Evidence of Participation in the Alleged Conspiracy by the Hitachi Entities (Dkt. 2976);
- Motion for Summary Judgment (on liability, Illinois Brick, due process, and statute of limitations) by TDA (Dkt. 2984);
- Motion for Summary Judgment (on liability) by the Panasonic Entities (Dkt. 3001);
- Motion for Summary Judgment Based Upon Absence of Evidence of Liability by Mitsubishi (Dkt. 3037); and
- Motion for Summary Judgment (on liability) by Koninklijke Philips N.V. (Dkt. 3040).

The following two *Daubert* motions were made in the Remand Plaintiffs' actions and have not yet been ruled upon³:

- Plaintiffs' Motion to Partially Exclude Expert Report and Opinions of Dr. Ordovery (Dkt. 3170); and
- SDI Defendants' Motion to Exclude Expert Testimony of Dr. Stephan Haggard (Dkt. 3172).

Once the Court issues orders on the five summary judgment and two *Daubert* motions identified above, all MDL pretrial proceedings in the Remand Plaintiffs' cases will be complete.

² Electrograph Systems, Inc.; Electrograph Technologies, Corp.; Office Depot, Inc.; CompuCom Systems, Inc.; Interbond Corporation of America; P.C. Richard & Son Long Island Corporation; ABC Appliance, Inc.; Schultze Agency Services LLC on behalf of Tweeter Opco, LLC and Tweeter Newco, LLC; Tech Data Corporation and Tech Data Product Management, Inc.; and Costco Wholesale Corporation.

³ A third *Daubert* motion, relating to defense expert Daniel Rubinfeld (Dkt. 3176), has not yet been resolved. The parties and the Court previously agreed, however, that this motion would not be ruled upon by the MDL court and instead would be adjudicated by the respective remand courts since it is pending *only* in the Remand Plaintiffs' cases. See Dkt. 4673, Dkt. 4676 ("Consistent with the Court's Order, the parties agree that the *Daubert* motion at MDL Dkt. No. 3176 should be decided by the remand court.").

Accordingly, the Remand Plaintiffs move the Court to enter an order at that time suggesting that, pursuant to 28 U.S.C. § 1407, JPML Rule 10.1(b)(i), and Local Civil Rule 7-11, the JPML initiate the process for the remand of their cases from the Northern District of California back to the respective transferor courts. Upon remand, the transferor courts will obtain jurisdiction over these actions, which will enable the transferor courts to establish trial dates and a schedule for trial proceedings.

For the Court's convenience, the Remand Plaintiffs provide the following list of transferor courts in which their actions were filed along with the respective individual case numbers in this Court:

Eastern District of New York

Electrograph Systems, Inc., et al. v. Hitachi, Ltd., et al., N.D. Cal. No. 3:11-cv-01656

Electrograph Systems, Inc., et al. v. Technicolor SA, et al., N.D. Cal. No. 13-cv-05724

P.C. Richard & Son Long Island Corp., et al., v. Hitachi, Ltd., et al., N.D. Cal. No. 3:12-cv-02648

P.C. Richard & Son Long Island Corporation, et al. v. Technicolor SA, et al., N.D. Cal. No. 13-cv-05725

Schultze Agency Services, LLC v. Hitachi, Ltd., et al., N.D. Cal. No. 3:12-cv-2649

Schultze Agency Services, LLC v. Technicolor SA, Ltd., et al., N.D. Cal. No. 13-cv-05668

Southern District of Florida

Interbond Corp. of Am. v. Hitachi, Ltd. et al., N.D. Cal. No. 3:11-cv-06275

Interbond Corp. of Am. v. Technicolor SA, et al., N.D. Cal. No. 13-cv-05727

Office Depot, Inc. v. Hitachi, Ltd. et al., N.D. Cal. No. 3:11-cv-06276

Office Depot, Inc. v. Technicolor SA, et al., N.D. Cal. No. 13-cv-05726

Middle District of Florida

Tech Data Corp., et al. v. Hitachi, Ltd., et al., N.D. Cal. No. 13-cv-00157

Northern District of Texas

CompuCom Systems, Inc. v. Hitachi, Ltd., et al., N.D. Cal. No. 2:11-cv-06396

Western District of Washington

Costco Wholesale Corp. v. Hitachi, Ltd, et al., N.D. Cal. No. 11-cv-06397

The Remand Plaintiffs met and conferred with Defendants regarding their intention to file this motion, and Defendants stated that they oppose this motion.

DATED: October 26, 2016

Respectfully submitted,

/s/ Philip J. Iovieno

Philip J. Iovieno
Anne M. Nardacci
BOIES, SCHILLER & FLEXNER LLP
30 South Pearl Street, 11th Floor
Albany, NY 12207
Telephone: (518) 434-0600
Facsimile: (518) 434-0665
Email: piovieno@bsflp.com
anardacci@bsflp.com

William A. Isaacson
Kyle N. Smith
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Ave NW, Suite 800
Washington, D.C. 20015
Telephone: (202) 237-2727
Fax: (202) 237-6131
Email: wisaacson@bsflp.com
Email: ksmith@bsflp.com

Stuart Singer
BOIES, SCHILLER & FLEXNER LLP
401 East Las Olas Blvd., Suite 1200
Fort Lauderdale, FL 33301
Telephone: (954) 356-0011
Facsimile: (954) 356-0022
Email: ssinger@bsflp.com

*Liaison Counsel for Direct Action Plaintiffs and
Attorneys for Plaintiffs Electrograph Systems, Inc.,
Electrograph Technologies, Corp., Office Depot, Inc.,
CompuCom Systems, Inc., Interbond Corporation of
America, P.C. Richard & Son Long Island
Corporation, ABC Appliance, Inc., Schultze Agency
Services LLC on behalf of Tweeter Opco, LLC and*

*Tweeter Newco, LLC, and Tech Data Corporation and
Tech Data Product Management, Inc.*

/s/ Scott N. Wagner

Robert W. Turken
Scott N. Wagner
Mitchell E. Widom
BILZIN SUMBERG MAENA PRICE & AXELROD
LLP
1450 Brickell Ave, Suite 2300
Miami, FL 33131-3456
Tel: 305-374-7580
Fax: 305-374-7593
Email: rturken@bilzin.com
swagner@bilzin.com
mwidom@bilzin.com

*Counsel for Plaintiffs Tech Data Corporation and
Tech Data Product Management, Inc.*

/s/ David J. Burman

David P. Chiappetta (State Bar No. 172099)
PERKINS COIE LLP
505 Howard Street, Suite 1000
San Francisco, CA 94105
Telephone: (415) 344-7000
Facsimile: (415) 344-7050
Email: DChiappetta@perkinscoie.com

David J. Burman (*pro hac vice*)
Cori G. Moore (*pro hac vice*)
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: (206)359-8000
Facsimile: (206)359-9000
Email: DBurman@perkinscoie.com
CGMoore@perkinscoie.com

Counsel for Plaintiff Costco Wholesale Corporation